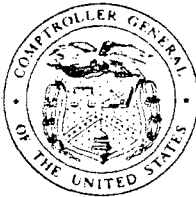


15-287  
Tapikse - PC2

**DECISION**



**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D. C. 20548

FILE: B-197000.2

DATE: October 27, 1980

MATTER OF: Interscience Systems, Inc.

**DIGEST:**

1. Request for reconsideration is denied where requesting party has not shown that prior decision upholding agency's position was based on error of law or fact.
2. GAO does not generally conduct independent investigation pursuant to bid protest function to verify validity of protester's allegations.

(Interscience Systems, Inc. requests reconsideration of our decision in a protest filed by it, Interscience Systems, Inc., B-197000, August 8, 1980, 80-2 CPD 103, in which we denied Interscience's complaints regarding a U.S. Army Missile Command (Army) procurement) for a UNIVAC Model 8433 disk system, or equal under Request for Proposals (RFP) DAAH03-80-R-0036. In rejecting Interscience's protest, we concluded: (1) that the Army's demonstrated need for equipment capable of performing certain diagnostic routines (diagnostics) in various operating modes was not unduly restrictive of competition and (2) that information furnished by Interscience during discussions indicated that its equipment could not meet that need (i.e., the diagnostic would not operate in an in-line mode). Because we found that the Interscience proposal was properly rejected on this basis, it was not necessary to decide other issues which Interscience had raised.

[In requesting reconsideration, Interscience questions our understanding of its protest, asserts that we should seek outside technical assistance in ferreting out the facts, argues that it can provide so-called in-line diagnostics, and continues to suggest that the Army's requirement permits only Univac diagnostics to be offered. Interscience has offered no evidence not previously considered in support of its request and has failed to show

[~~Reconsideration of~~ Complaint Regarding Army  
Procurement]

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that our prior decision was based on any error of law or fact.) Consequently, as explained more fully below, its request for reconsideration is denied.) 4 C.F.R. § 20.9(a).

(As indicated by our earlier decision, Interscience is not prejudiced by the Army's rejection of its proposal unless: (1) the Army's conclusion that Interscience's proposed equipment could not meet a mandatory requirement was arbitrarily held, or (2) the requirement was itself improperly imposed and thus placed an undue restriction on competition. Stated otherwise, the Army cannot be required to acquire a product which will not meet its legitimate needs.)

(To show that a RFP requirement is unduly restrictive of competition, a protester must establish that the requirement complained of is clearly unreasonable because it is not rationally related to the Government's minimum needs.) Constantine N. Polites & Company, B-189214, December 27, 1978, 78-2 CPD 437.

In these cases, Interscience seeks to impose its view of the manner in which diagnostic routines are to be used. It insists they are to be utilized by the maintenance contractor at the time of equipment failure and are not to be "operated by the user agency in the ongoing utilization of th[e] \* \* \* product. The Army, on the other hand, anticipates that its technical personnel or on-site maintenance contractor will need to test the operating status of this equipment during and without interrupting normal operation. Moreover, the Army says it needs tools which it can employ in utilizing this product so that it can implement operating procedures similar to those used by a missile system subcontractor whose data must be verified using the upgraded computer installation being acquired. (Our prior decision rejected Interscience's complaints in this respect because Interscience did not persuade us that the Army's stated need is unreasonable. In this respect, therefore, Interscience failed to meet its burden of proof.)

Likewise, it was Interscience's responsibility as an offeror to establish that the equipment it proposed would meet the Army's needs.) M & H Mfg. Co., Inc., B-191950, August 18, 1978, 78-2 CPD 129. Although Interscience insists that its equipment will operate in an in-line mode as required, the technical data it (submitted served only to convince the Army that it could not.)

(Concerning Interscience's belief that the true facts in this matter would have been discovered had this Office surveyed the Interscience user community, we point out that we do not generally conduct independent investigations pursuant to our bid protest function to verify the validity of a protester's allegations, see Sheldon G. Kall, B-199120, September 23, 1980, 80-2 CPD \_\_\_\_\_, and consequently, our decision must be founded in the record before us. See, e.g., Fil-Coil Company, Inc., B-198055, June 11, 1980, 80-1 CPD 409; Bowman Enterprises, Inc., B-194015, February 16, 1979, 79-1 CPD 121.

(Regarding the protester's belief that it could meet the Army's requirement only by offering Univac diagnostics, use of Univac diagnostics is not required by our decision, was not the Army's intention, and is not offered by the intended awardee which is a peripheral equipment manufacturer.

*Milton J. Fowler*

For the Comptroller General  
of the United States